

**REMARKS**

Claims 1, 4-5, 7-9, 11-14, 17-22, 24-27, 30-35, 37-40 and 43-56 are all the claims pending in the application. Claims 3, 6, 16, 29 and 42 have been canceled without prejudice or disclaimer.

**Claim Rejections - 35 U.S.C. § 103**

**A) Claims 1, 4-7, 11, 14, 17-20, 24, 27, 30-33, 37, 40 and 43-46**

Claims 1, 4-7, 11, 14, 17-20, 24, 27, 30-33, 37, 40 and 43-46 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Irvin (U.S. Patent No. 6,768,909) in view of Lin (U.S. Patent No. 6,393,292). Applicant respectfully traverses this rejection.

The present application teaches a radio apparatus in which some information is provided, even when the radio apparatus cannot determine its position. Particularly, claim 1 sets forth a judging means for judging whether the apparatus can determine its position and a sending means, which sends a message if the judging means judges that the apparatus cannot determine its position. Therefore, even when the apparatus cannot determine its position, the claimed device still sends some information, namely a message which includes at least the position of a base station located nearest to the apparatus.

The Examiner asserts that the combination of Irvin and Lin teaches or suggest each and every element of the claimed invention. However, the combination of these references still lacks a judging means and a sending means as claimed. Irvin teaches a mobile terminal which can determine its position using either an internal positioning system or an external positioning system. The Examiner asserts that column 6, lines 4-14 and column 10, lines 1-54 of Irvin

teaches “sending means for sending a message to a sender of said radio signal if said judging means judges that said apparatus cannot determine its position.” However, this portion of Irvin does not teach the claimed sending means which sends a message if the radio apparatus cannot determine its position. Instead Irvin merely teaches switching between two different positioning methods. Irvin never contemplates not being able to determine the mobile terminal position. Irvin only contemplates cases in which the position can be determined by one of two positioning methods. Accordingly, Irvin does not disclose the claimed invention in which a judging means determines whether a radio apparatus can determine its position, and a sending means which sends a message if the judging means determines that the radio apparatus *cannot* determine its position.

The above-noted deficiency of Irvin is not corrected by Lin. Lin also fails to teach anything regarding a radio apparatus which cannot determine its position and therefore sending a message. The Examiner uses Lin only to show a message which comprises the position of a base station located nearest to the radio apparatus. Therefore, even if the Examiner’s assertions regarding Lin were correct, it still would not correct the deficiencies of Irvin.

In view of the above, claim 1 is allowable over the combined teachings and suggestions of Irvin and Lin at least because neither Irvin nor Lin, either alone or in combination, teach or suggest anything regarding a radio apparatus with a sending means which sends a message when a radio apparatus cannot determine its position.

Claims 14, 27 and 40 are allowable over the combination of Irvin and Lin at least for reasons similar to those given above with respect to claim 1. Claims 4-7 and 11 depend from

claim 1, claims 17-20 and 24 depend from claim 14, claims 30-33 and 37 depend from claim 27 and claims 43-46 depend from claim 40. Therefore, claims 17-20, 24, 30-33, 37 and 43-46 are allowable at least because of their dependency.

**B) Claims 3, 8, 16, 21, 29, 34 and 42**

Claims 3, 8, 16, 21, 29, 34 and 42 stand rejected under 35 U.S.C. §103(a) as being anticipated by Irvin in view of Lin and further in view of Havinis et al. (U.S. Patent No. 6,311,069). Applicant respectfully traverses this rejection.

Claims 3, 16, 29 and 42 have been canceled, rendering their rejection moot.

Claims 8, 21 and 34 depend from claims 1, 14 and 27, respectively. Like Irvin and Lin, Havinis ('069) fails to teach anything regarding a radio apparatus that cannot determine its position. Therefore, even if it were proper to modify Irvin and Lin with Havinis ('069), the addition of Havinis ('069) would fail to correct the above-noted deficiencies of the Irvin and Lin combination. Accordingly, because the combined teachings and suggestions of Irvin, Lin and Havinis ('069) fail to teach or suggest each and every element of claims 1, 14 and 27, the combination certainly fails to teach each and every element of dependent claims 8, 21 and 34 and Applicant respectfully requests that the Examiner withdraw the rejection of claims 8, 21 and 34.

**C) Claims 9, 22 and 35**

Claims 9, 22 and 35 stand rejected under 35 U.S.C. §103(a) as being anticipated by Irvin in view of Lin and further in view of Havinis et al. (U.S. Patent Application Publication No. 2002/0077116). Applicant respectfully traverses this rejection.

Claims 9, 22 and 35 depend from claims 1, 14 and 27, respectively. Havinis ('116) also fails to teach anything regarding a radio apparatus that cannot determine its position. Therefore, even if it were proper to modify Irvin and Lin with Havinis ('116), the addition of Havinis ('116) would fail to correct the above-noted deficiencies of the Irvin and Lin combination. Accordingly, because the combined teachings and suggestions of Irvin, Lin and Havinis ('116) fail to teach or suggest each and every element of claims 1, 14 and 27, the combination certainly fails to teach each and every element of dependent claims 9, 22 and 35. Therefore, Applicant respectfully requests that the Examiner withdraw the rejection of claims 8, 21 and 34.

**D) Claims 12, 13, 25, 26, 38, 39 and 47-56**

Claims 12, 13, 25, 26, 38, 39 and 47-56 stand rejected under 35 U.S.C. §103(a) as being anticipated by Irvin in view of Lin and further in view of McCrady et al. (U.S. Patent No. 6,453,168). Applicant respectfully traverses this rejection.

Claims 12, 12, 49 and 50 depend from claim 1, claims 25, 26, 51 and 52 depend from claim 14, claims 38, 39, 53 and 54 depend from claim 27 and claims 47, 48, 55 and 56 depend from claim 40. As explained above, Irvin and Lin are deficient with respect to the independent claims at least because they fail to contemplate a radio apparatus that cannot determine its position information sending a message. Nothing in McCrady corrects this deficiency of the Irvin and Lin combination. Therefore, even if it were proper to modify Irvin and Lin with McCrady as suggested by the Examiner, this would do nothing to correct the above-noted deficiencies of the Irvin and Lin combination with respect to the independent claims. Accordingly, because the combined teachings and suggestions of Irvin, Lin and McCrady fail to

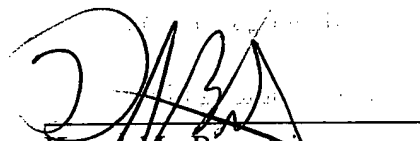
teach or suggest each and every element of claims 1, 14, 27 and 40 the combination certainly fails to teach each and every element of dependent claims 12, 13, 25, 26, 38, 39 and 47-56 and Applicant respectfully requests that the Examiner withdraw the rejection of claims 12, 13, 25, 26, 38, 39 and 47-56.

**Conclusion**

In view of the above, reconsideration and allowance of this application are now believed to be in order, and such actions are hereby solicited. If any points remain in issue which the Examiner feels may be best resolved through a personal or telephone interview, the Examiner is kindly requested to contact the undersigned at the telephone number listed below.

The USPTO is directed and authorized to charge all required fees, except for the Issue Fee and the Publication Fee, to Deposit Account No. 19-4880. Please also credit any overpayments to said Deposit Account.

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